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ABSTRACT

A task force of professionals from both public and private schools identified four primary topic areas central to the difficulties experienced by the two sectors in cooperating to serve students with disabilities. Each of the four areas is addressed in terms of major findings and recommendations. Issue 1, the lack of sufficient collaborative long range planning involving parents, local and state education agencies, and private education agencies, is considered in light of nine planning foci, including assessments of statewide special education needs and planning of entrance and exit criteria to private school programs. Twelve elements are postulated in the relationship between private and public schools as part of the analysis of issue 2, the lack of a clearly defined relationship between the two sectors. Elements include state and federal approval and individualized education program implementation. A lack of directed leadership in establishing interagency agreements is cited as issue 3. Three major areas to be addressed by such agreements are pinpointed: service delivery, program approval, and funding authority. The fourth issue, inconsistent interpretation of federal and state special education laws, is addressed through analysis of conflict points. The guidelines conclude with a list of eight task force recommendations. (CL)

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Received and Approved by the
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CEC/NAPSEC Task Force to Develop Guidelines for Effective Cooperation Between Public and Private Schools in Meeting Legal and Professional Responsibilities for the Education of Children with Disabilities

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CEC/NAPSEC TASK FORCE TO DEVELOP GUIDELINES FOR EFFECTIVE COOPERATION BETWEEN PUBLIC AND PRIVATE SCHOOLS IN MEETING LEGAL AND PROFESSIONAL RESPONSIBILITIES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES

Dr. Theodore F. Riggen, Chair
Director of Special and Compensatory Education
Vermont Department of Education
Montpelier, Vermont

Dr. Edward G. DeForrest
Executive Director
Spaulding Youth Center
Tilton, NH

Dr. David L. Holmes
Eden Institute
Princeton, NJ

Ms. Pamela Kaufmann
Asst. Director of Program
Audit & Assistance
Department of Education
1385 Hancock Street
Quincy, MA

Mr. Edward W. Long II
Assistant Director - Special Education Center
Orange/Ulster BOCES
Goshen, NY

Dr. Rebecca McGlamery
Assistant Superintendent
Oak Hill School
Hartford, CT

INTRODUCTION

In the summer and fall of 1985 officers of the Council for Exceptional Children's (CEC) and the National Association of Private Schools for Exceptional Children (NAPSEC) met to discuss the relationship between the public and private sectors involved in the education of students with disabilities. The result of these discussions was a belief that problems existing between organizations are a result of a lack of both effective procedures and other guidance as to how the two systems should work together.

A task force comprised of professionals from private schools and public schools was assembled. In January, 1986, a charge was given to the Task Force to develop guidelines for effective cooperation between the sectors in meeting legal and professional responsibilities for the education of children with disabilities.

The first of a series of meetings of the Task Force was held at the Austine School for the Deaf, a private school in Brattleboro, Vermont. In addition to Task Force members the meeting was attended by Dr. Susan Nelson, Executive Director of NAPSEC, and Dr. Fred Weintraub, Assistant Executive Director, Department of Governmental Relations for CEC. Four primary topical areas were identified and agreed to by those present as being central to the apparent difficulties in the relationship between public and private schools.

The Four Issues

Issue 1: There is a lack of sufficient collaborative long-range planning involving parents, local education agencies, state education agencies, and private education agencies.

Issue 2: There is no clearly defined or understood operational relationship between public and private schools; further, there are no established indicators to gauge the quality of this relationship.

Issue 3: Leadership in establishing inter-agency agreements needs to be more directed.

Issue 4: The inconsistent interpretation of P.L. 94-142 and state special education laws contributes to the conflict between public and private providers of services to students with disabilities.

Prior to planning for each of the four topical areas, the Task Force spent some time discussing the principles which would guide their work in exploring the relationship between public and private service providers. The group agreed to revisit these guiding principles as their work progressed.

Guiding Principles

- Both public and private programs are simply points on a continuum of services necessary to meet the needs of students who have disabilities.
- Within the mandates of P.L. 94-142, the guarantees provided to students and their families and the accompanying responsibilities of schools providing these services apply regardless of the program placement, whether public or private.
- Public and private agencies have mutual responsibility for the joint long-range planning of services designed to meet the needs of students. Parents also must have an integral part in the planning of these programs and services.
- There exists a common interest on the parts of both public and private programs to effectively meet the needs of students with disabilities.

Over the life of the Task Force, each of the four issues was explored. The following is discussion of the major findings and recomendations or each issue explored by the Task Force:

Issue 1: There is lack of sufficient collaborative long-range planning involving parents, local education agencies, state education agencies, and private education agencies.

Each Task Force member independently surveyed her or his own state to determine what private school and public school personnel believe to be the subjects around which long-range planning should occur. Additionally, each member asked these same stakeholders about the factors which seem to prevent or erode good long-range planning.

Nine topics emerged around which collaborative long-range planning is needed. The nine topics are as follows:

A. assessments of statewide special education needs

B. construction of statewide special education long-range plans

C. evaluation of these same long-range plans

D. statewide special education activities such as the development of philosophy, the development of statewide program descriptions, and the development of special education funding formulas

E. planning of entrance and exit criteria to private school programs

F. setting of the role of private schools in the continuum of statewide services

G. statewide fiscal resource planning

H. planning around legislative issues

I. transition from private schools.

The perceived reasons for the lack of solid and successful long-range planning were many and varied. To explore these reasons in order to derive a blueprint for change, the Task Force used a conceptual model developed by Richard Johnson[1]. The following is a review of the pitfalls identified by the Task Force queries as they apply to the phases of the Johnson model:

1. Preliminary Negotiations

Preliminary negotiations in planning and other joint efforts are left incomplete.

- Planning takes place without representation of all the key groups having a stake in the outcome of the planning.
- Parents are typically not involved in private-public planning efforts.
- Time lines are generally inappropriate to the planning task.

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1. Johnson, R.A. Improving effectiveness of a school organization through coordinate status consultation. In Parker, C.A. (ED.) Psychological Consultation: Helping Teachers Meet Special Needs. Minneapolis, Minnesota: Leadership Training Institute/Special Education, University of Minnesota, 1975.

- Personnel, fiscal, and other prerequisites are not carefully negotiated in advance of the planning.

- The planning effort often has not been legitimated with those who will have control over the use of the resulting plan.

- As the planning and implementation moves along, there is seldom an effort to evaluate the planning process and make modifications as necessary.

- Those leading the planning effort often do not have a clear sense of the steps to quality long-range planning.

2. Needs Assessment

   Planning groups often chase off in the direction of the perceived problems without conducting a careful needs assessment to clearly describe the parameters to and details of the problems.

3. Goal Setting

   The goals of the planning are often left unstated and are not commonly understood by the planning group members, let alone their constituencies.

4. Model Building, and Task, Strategy, and Accountability Specification

   The models which are constructed to address the problem are not thought out in enough detail to allow for implementation.

5. Outcome Evaluation

   The models become an end in themselves rather than an effort to more approximately address a usually complex inter-agency problem. As approximations, the models need to be evaluated against criteria set well in advance of the implementation of the models.

6. Recycle/Reprogram

   Once evaluated, the models need to be altered and recycled, perhaps going back to the preliminary negotiation or needs assessment phases.

Throughout phases 2 through 6, educators who were surveyed reported problems also associated with preliminary negotiations, specifically inappropriate time lines, poorly thought out resources, lack of legitimation, and missing stakeholders. One consistently emerging complaint from both sectors was that there is seldom involvement of private school professionals in either significant state-level or local-level, planning.

Issue 2: There is no clearly defined or understood operational relationship between public and private schools; further, there are no established indicators to gauge the quality of this relationship.

Even if conscientious and considered planning occurs among professionals, it will not be worthwhile when there is no philosophical or operational relationship between schools and agencies in the public and private sectors. These linkages, as such relationships are now commonly called, are essential if those responsible for identifying, evaluating, placing, and serving exceptional children are to be able to appropriately and effectively access each other's services. Too often attitudinal, informational, and procedural barriers prevent or unnecessarily delay decision making and the provision of services.

Public and private schools share a common interest in serving handicapped students and their families. Only where there exist exclusionary policies, poor communication, or the absence of inter-agency planning does a conflict of interest arise. It is clearly in the interest of service providers (and ultimately, of course, service recipients) to devote time and energy to examining and improving this crucial relationship.

It is necessary to acknowledge and understand the differences in culture and language between the public schools and private schools. While sharing the common goals of appropriate placement, adjustment, and educational growth for the student, procedural priorities are not the same. The public school or agency referring the student, after determining the appropriateness of the referral/placement, must be concerned with the required paperwork, student and family cooperation, and due process compliance. The private school, as the receiving agency, necessarily is concerned with gathering diagnostic, adjustment, clinical, and programming data. This difference in perspective and priority can readily create a climate ripe for misunderstanding and misinterpretation. Each agency should minimize these differences through conscientious efforts of specific liaison personnel and adequate information sharing. Each party in the public-private linkage is well advised to cultivate and nurture the relationship carefully.

The relationship of the seemingly separate sectors of public and private schools were determined by the Task Force to contain twelve elements. The elements of the relationship are listed below.

1. State and Federal Approvals. Most private schools are approved for operation and are given specific limitations and requirements from the State or other authorizing agencies which, in large part, describe and affect programsand character. Public schools need to be aware of these program parameters to properly utilize private schools.

2. Pre-Referral Information. Information about services and programs at private schools and the needs and expectations on the part of the public schools should be shared prior to referral of students. This is partly a function of private sector public relations and publicity, and partly a function of open and ongoing inter-agency communication.

3. Referral Procedure. The paperwork and procedural requirements of the sending and receiving schools should be simple and clear. All necessary material should be readily provided. The visiting and interview process should be clearly explained. Private schools need to remember how difficult prereferral procedures are when agencies and public schools are making referrals to multiple private agencies.

4. Individualized Education Program (IEP) Development. The private school is in a position to provide information to the public school to be used in developing the IEP. The information requirements and schedule of the public school should be honored. It should be recognized that the private school can make accurate, meaningful observations about progress and needs, and recommendations about appropriate subsequent placement and services. This information should be used by the LEA to make collaborative decisions about continued or alternate placement.

5. Individualized Education Program Implementation. The ongoing delivery of services is the responsibility of the private school. Full knowledge of these services by the sending public school is essential to maintain the confidence and credibility which exists in the inter-agency relationship. The IEP review process must be completed cooperatively.

6. Annual Assessment. Yearly reviews and evaluations of students are needed for the public school to best meet their placement, monitoring, and follow-along responsibilities. Private schools should report and inform, not merely recommend services.

7. Transition. Communication which occurs prior to and when a student leaves one placement and moves to a new one is important and, too often, grossly neglected. In many cases, progress achieved and insights gained are lost when this piece of the relationship is missing. Each party must make a commitment to foster communication during transition periods, one product of which should be a jointly developed written transition plan.

8. Follow-up. Follow-up generally takes the shape of post-program inquiries specific to individual students. The purpose is to learn more about student progress and identify program areas needing modification or improvement. Again, both parties can only gain by constructive cooperation and communication in the follow-up activities.

9. Program Planning. In light of the interdependency which develops between public and private schools, cooperative inter-agency program planning is considered an important aspect of the relationship. Personnel involved in planning should include those in a position to deliver and/or supervise the services being planned, as well as parents and other stakeholders.

10. Program Evaluation. Often an outgrowth of follow-up studies and/or state requirements, the evaluation of programs is almost always an internal process and limited in nature. Cooperative inter-agency program evaluation can provide a unique opportunity for the public-private relationship to better respond to the programming needs of students with disabilities and to foster confidence and communication within both the public and private programs.

11. Training/Consultation/Technical Assistance. This is an area which encompasses services rarely shared between public and private schools, but which is seen as a valid and potentially valuable aspect of the relationship. As specialists, most private school personnel are in a position to provide unique advice and assistance to public schools as programs are monitored, staff training is developed, and the needs of both the private and public sectors are assessed.

12. Research. As members of the education profession, we have obligations to continually evaluate and review the effectiveness of our systems, methods, and procedures. The combined perspectives and expertise of public and private schools make this area an important element in our joint interests and working relationships.

Items two through six of the above list are district/child/agency specific and will vary greatly from state to state, school to school, and student to student. The degree of these variations adds to the confusion and difficulties and makes it doubly important that communication and working relationships be effective and ongoing. Regular meetings of program representatives on state, regional, and (especially) local levels are appropriate opportunities for the sharing of information, planning, and relationship-building. Many of us, however, have participated in "Joint Task Force on Such and Such" meetings and have been numbed by statistics, discouraged by overwhelming state or federal restrictions, and depressed by the magnitude of the problems. Only through individually initiated, agency-to-agency communication of ideas, information, and common interests will the elements of the relationship defined above begin to create a climate of cooperation which will result in enhanced options and opportunities for students with disabilities.

Issue 3: Leadership in establishing inter-agency agreements needs to be more directed.

Private schools, as primary stakeholders in services to children with disabilities seek to balance their relationship with other state agencies and systems beyond State Departments of Education and local school districts. As important as these relationships are to the public schools, the private schools are by their nature more severely impacted by fragile and shifting relationships between and among the various agencies.

In order to effectively address the concerns outlined in Issues #1 and #2 above, it is essential to develop clear and definitive inter-agency agreements. Such agreements should address coordinated efforts between public and private service providers and educational and judicial systems. The full continuum of services provided by these agencies needs definition as well as clarification of case management responsibilities. Inter-agency agreements are an integral element in long-range planning and program development. Further, inter-agency agreements should serve to ensure that there exists consistency of approach and decision making within agency local or regional based offices.

The lack of consistent interstate agreements can significantly and negatively influence the operation of a private school in its efforts to serve special education students from more than one state.

There needs to be a commitment to these agreements by key state leaders of the affected agencies as well as a commitment of needed fiscal and staff resources.

There are three major areas to be addressed by inter-agency agreements.

1. Service Delivery.

   The Task Force identified a wide range of programs and services provided by the private sector, both direct and indirect in nature. These programs and services are the core of the relationship between the private and public sectors and it is imperative that the service delivery system work smoothly and well. The following were identified as outstanding needs that exist with respect to this system:

   - clear definition of the systems of care including coordination of integrated service delivery
   - clear definition of fiscal responsibility
   - definition of responsibility for placement decisions and role of school systems (for example, in some states the court or judicial system will make a placement decision. It is not always clear who has program and fiscal responsibility for the student.)
   - data collection to identify placement patterns and program development needs.

2. Program Approval.

   It is not unusual for a private school to be held accountable to regulations of several state agencies in order to secure program approval. For example, in Massachusetts, private special education schools must comply with Department of Education regulations governing publicly funded students in day and residential schools. Where a residential school serves students under age 16, the Commonwealth's Office for Children is also responsible for approving the residential component. For residential schools serving students over the age of 16, the Department of Mental Health must approve the residential components. Where there is a mixture of students ages (over and under age 16), all three agencies can be involved.

Therefore, inter-agency agreements must:

- clearly define respective agency authority and jurisdiction
- coordinate the development and enforcement of respective agency regulations to eliminate overlap and ensure consistency
- coordinate monitoring activities and follow-up relative to cited problem areas and non-compliance. For example, if there exists the same regulation in two different agencies, there should be agreement to accept one agency's standard as the prevailing one so there will not be duplicated efforts of monitoring and inconsistent application of standards.
- provide coordinated in-service training to respective agency staff to ensure an understanding of each agency's authority, jurisdiction, and programs.
- include a dispute resolution process to ensure inter-agency conflicts are effectively addressed.

3. Funding Authority

There exists a need for funding authorities to coordinate the method by which the tuition is set for cost-shared students. In addition, state agencies should reach agreement as to the criteria for care/support services and educational/ instructional services for theses students.

Increased attention needs to be devoted to the scope of interstate agreements or compacts. Such agreements should address the same issues as outlined above. Such agreements should clearly define the conditions under which a state approves the placement of its students in out-of-state, as well as define the conditions under which one state monitors and approves out-of-state schools. Definition is necessary to clarify the setting of tuition rates when both the in-state and out-of-state schools are governed by two different rate setting authorities.

Issue 4: The inconsistent interpretation of P.L.94-142 and state special education laws contributes to the conflict between public and private providers of services to students with disabilities.

A plan was developed by the Task Force to conduct a needs assessment in order to gain a current and field-based understanding of this issue. Specific to the assessment, some task force members explored this issue with matched groups of private and public service providers in their own states. Additionally, Fred Weintraub and Susan Nelson informally did the same with members of other organizations.

A particular wrinkle which emerged from this study was the distinction between rules and regulations covering students placed in private programs by districts and those students placed directly by parents. The question was raised as to how the provisions of a free and appropriate public education are supported in regulations in cases where students are directly placed by parents in private settings.

What seemed to be a further problem was in the federal interpretation of "least restrictive environment" results in private schools being considered as a less-than-respectable point on the continuum of alternative services.

The Task Force documented that the Office of Special Education and Rehabilitation Services (OSERS) has stated that, "OSERS' goal is to ensure that...a continuum of alternative placements is available to meet the needs of handicapped children for special education and related services. The continuum includes regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions."[2] Further, "Various alternative placements must be available to ensure that each handicapped person receives an education which is appropriate to his or her individual needs."

While the OSERS position is clear, the monitoring manuals were promulgated to assess state compliance to the regulations of P.L.94-142 which seem in conflict with the OSERS goal. Specifically, Manual 10, Least Restrictive Environment, is reported to have the effect of eliminating private program options in favor of integrated environments.

Such a conflict leads to further confusion as to the role of private special education in a continuum of program options for children who have disabilities.

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2. Office of Special Education and Rehabilitative Services, OSERS' News in Print, Volume 2, Summer, 1986.

The OSERS' conflicting message to the states has resulted in numerous court actions, the most recent being a July 16, 1985 Appeals Court ruling which upheld an August, 1984 U. S. District Court decision[3] that said, "There is a legitimate place for separate schools within the 'continuum' for special education placements envisioned" by the Education of All Handicapped Children Act, Public Law 94-142.

Kaufman, et. al.[4] have stated that "There is a presumption that children should be in regular classes and there have to be good reasons why not. The Court did not require that every child needing special education services receive them in a regular classroom environment; the Court did require that a child be integrated whenever he could profit by such integration. The law has never stated equal treatment means identical treatment for different types of persons."

In order to proceed through these conflicts, it is the recommendation of the Task Force that all stakeholders in the field of special education recognize the primary goal of P.L. 94-142 of which is the provision of programs and services to meet the needs of children with disabilities. It is our collective responsibility to identify the educational needs of the children and make use of all educational options and services to meet those needs.

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3. Education of the Handicapped, September 4, 1985, p. 3.

4. Kaufman, Agard and Semmel, Mainstreaming Learners in their Environment, Brookline Books, 1986, p. 11.

TASK FORCE RECOMMENDATIONS

Clearly the relationship between the public and private schools can and must be improved to achieve our mutual goal that children with disabilities be better served. The CEC/NAPSEC Task Force offers the following recommendations for improving the relationship:

1. That the two sectors should enter into joint long-range planning. It is recommended that this paper be forwarded by CEC and NAPSEC to the presidents of both the National Association for State Directors of Special Education (NASDSE) and the Council for Administration of Special Education (CASE) with an offer to meet and confer.

2. That for a specific length of time (e.g., 24 months) the above definition of the relationship (Issue #2), or some other agreed upon definition be established for the purpose of planning.

3. That CEC and NAPSEC establish a process of deriving a set of quality indicators for each element of the agreed upon definition.

4. That CEC, NAPSEC and perhaps CASE and/or NASDSE provide technical assistance to public and private providers as they attempt to improve their relationships.

5. That CEC and NAPSEC collect information on local and state attempts to improve the relationship between the public and private sectors.

6. That CEC and NAPSEC develop a model state level inter-agency agreement for use by public and private schools.

7. That CEC and NAPSEC share concern for the perceived devaluing of private schools by state and federal education agencies.

8. That CEC and NAPSEC explore regulatory changes around the issue of the placement of disabled students in private schools by parents.

We are bonded by our common interest to serve children well. It is untoward for there to continue to exist solvable organizational problems which threaten our common interest.

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